

# PERFORMANCE AUDIT REPORT

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## Erie County Gaming Revenue Authority

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May 2025



Commonwealth of Pennsylvania  
Department of the Auditor General

Timothy L. DeFoor • Auditor General

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**TIMOTHY L. DEFOOR  
AUDITOR GENERAL**

May 15, 2025

Ms. Kelly Hess  
Chairperson of the Board  
Erie County Gaming Revenue Authority  
5340 Fryling Road, Suite 201  
Erie, PA 16510

Dr. Perry Wood  
Executive Director  
Erie County Gaming Revenue Authority  
5340 Fryling Road, Suite 201  
Erie, PA 16510

Dear Chairperson Hess and Dr. Wood:

This report contains the results of the Department of the Auditor General's performance audit of the Erie County Gaming Revenue Authority (ECGRA).

The audit was conducted pursuant to: (1) Section 10 of the Pennsylvania's Economic Development Financing (EDF) Law;<sup>1</sup> (2) Section 1403(c)(2)(ii)(D.2)(IV) of the Pennsylvania Race Horse Development and Gaming Act<sup>2</sup> (Gaming Act); and (3) the Department's primary auditing authority under Sections 402 and 403 of The Fiscal Code<sup>3</sup> (Code) and in accordance with generally accepted *Government Auditing Standards*. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives.

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<sup>1</sup> 73 P.S. § 380, as last amended by Act 36 of 1975. Please note that under the EDF Law, the ECGRA, as an industrial and commercial development authority, is a public instrumentality of the commonwealth and a public body corporate and politic as incorporated under the law. See 73 P.S. §§ 374 (related to Method of incorporation...) and 376 (relating to Purposes and powers; general).

<sup>2</sup> 4 Pa.C.S. § 1403(c)(2)(ii)(D.2)(IV), as reenacted and amended by Act 42 of 2017 and affected by Act 24 of 2021, effective July 1, 2021.

<sup>3</sup> 72 P.S. §§ 402 and 403 and Pa. Const. art. VIII, Sec. 10. See also *Dep't of the Aud. Gen. v. State Emp. Ret. Sys.*, 860 A.2d 206, 214 (Pa. Cmwlt., 2004).

Our performance audit of ECGRA included three objectives: (1) Determine whether the ECGRA complied with the EDF Law,<sup>4</sup> the Gaming Act,<sup>5</sup> and other relevant state statutes, the 2008 Ordinance,<sup>6</sup> and the Settlement Agreement,<sup>7</sup> as well as internal policies, and procedures, as applicable, relevant to the administration and awarding of loans and grants; (2) Determine whether expenditures of the local share assessment funds are disclosed on ECGRA's publicly accessible Internet website and include a disclosure that the funds originated from licensed gaming activities, as well as that such funds are not used to pay for the tuition or other educational expenses of an officer or employee of ECGRA, all of which is required by the Gaming Act;<sup>8</sup> and (3) Determine whether the ECGRA received gaming revenue in accordance with the EDF Law; the Gaming Act; the 2008 Ordinance; and the 2010 Settlement Agreement. The audit period was April 1, 2022, through March 31, 2024, for the first two objectives and April 1, 2021, through March 31, 2024, for the third objective, with updates where applicable through the end of our audit procedures.

We found that ECGRA complied with relevant laws, regulations, and internal policies when approving and administering grants and loans, with one exception related to monitoring closeout documentation. ECGRA also adhered to the terms of the 2010 Settlement Agreement by providing the entities listed in the agreement with their share of the gaming funds. Additionally, ECGRA complied with the Gaming Act's public disclosure requirements of local share assessment funds and the prohibition on using those funds for tuition or educational expenses for any ECGRA officer or employee. Finally, we found that due to an informal, unwritten agreement between ECGRA and Erie County related to quarterly fund distributions and the absence of a year-end reconciliation process, ECGRA did not receive \$538,248 of the gaming funds it was entitled to for the period April 1, 2021, through March 31, 2024.

Our audit report contains three findings with a total of seven recommendations, including three recommendations to ECGRA, three recommendations to Erie County, and one combined recommendation to both ECGRA and Erie County. Overall, collaboration between ECGRA and Erie County is essential for ECGRA to effectively implement most of our recommendations. As the audited entity, ECGRA was given the opportunity to respond to our findings and recommendations. ECGRA management agreed with the three findings and four recommendations, including the three recommendations made to them specifically and the one combined recommendation. *See further comments in ECGRA's Response and Auditor's Conclusion* section of this report.

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<sup>4</sup> 73 P.S. § 371 *et seq.* (enacted by Act 102 of 1967, as amended).

<sup>5</sup> 4 Pa.C.S. § 1101 *et seq.* (enacted by Act 71 of 2004, as amended by Act 135 of 2006 and reenacted and amended by Act 42 of 2017).

<sup>6</sup> Ordinance Number 231, 2008, amending Ordinance Number 167, enacted by the County Council of the County of Erie on November 14, 2008.

<sup>7</sup> December 13, 2010, Settlement Agreement in the matter of *Summit Township Industrial & Economic Development Authority et al. v. ECGRA and Erie County*, Erie Cnty. Ct. Cm. Pl. 14961-2009.

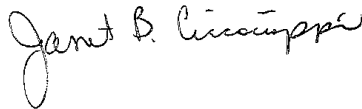
<sup>8</sup> 4 Pa.C.S. § 1403(c)(2)(ii)(D.2)(I)-(III) (which was part of the reenactment and amendment of the Gaming Act brought about by Act 42 of 2017).

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Additionally, we made recommendations to Erie County to urge them to work with ECGRA to ensure funds are distributed according to the Gaming Act, including settlement of any prior or subsequent differences, and to perform year end reconciliations. Since Erie County was **not** the audited entity, it was **not** provided with an opportunity to formally respond to our recommendations.<sup>9</sup>

We reserve the right to follow up at an appropriate time to determine whether and to what extent our recommendations have been implemented. In closing, we thank ECGRA for its cooperation and assistance during this audit.

Sincerely,

A handwritten signature in cursive script, reading "Janet B. Ciccocioppo".

Janet B. Ciccocioppo, CPA  
Deputy Auditor General for Audits

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<sup>9</sup> Auditing standards require the opportunity to respond to only the audited entity, and **not** third parties. See U.S. Government Accountability Office. *Government Auditing Standards*. 2018 Revision Technical Update April 2021. Paragraph 8.30.

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### Erie County Gaming Revenue Authority

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#### Executive Summary

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The Erie County Gaming Revenue Authority (ECGRA), established by Erie County ordinance in 2008 pursuant to the Economic Development Financing Law (EDF Law), administers local share gaming revenue from Erie County's only licensed gaming facility, Presque Isle Downs & Casino. This revenue, authorized by the 2004 Pennsylvania Race Horse Development and Gaming Act (Gaming Act), is to be split evenly (50/50 percent) between Erie County and ECGRA for municipal grants to support nonprofits and small businesses, aligning with ECGRA's mission to elevate Erie County through economic and community development.

In 2010, a settlement agreement with Summit Township and other local townships, resolving prior litigation, mandated that 25 percent of uncommitted restricted gaming funds be distributed to specified governmental entities for infrastructure, emergency services, and local expenses.

Act 42 of 2017 amended the 2004 Gaming Act, requiring the Pennsylvania Department of Revenue to distribute quarterly funds from interactive gaming and slots to municipalities hosting licensed gaming entities. The 50/50 revenue split between Erie County and ECGRA remains, but \$1 million of ECGRA's share under Act 42 must now fund the Erie County Land Bank.

Our performance audit of ECGRA had three objectives: (1) Determine whether the ECGRA complied with the EDF Law, the Gaming Act, and other relevant state statutes, the 2008 Ordinance, and the Settlement Agreement, as well as internal policies and procedures, as applicable, relevant to the administration and awarding of loans and grants; (2) Determine whether expenditures of the local share assessment funds are disclosed on ECGRA's publicly accessible Internet website and include a disclosure that the funds originated from licensed gaming activities, as well as that such funds are not used to pay for the tuition or other educational expenses of an officer or employee of ECGRA, all of which is required by the Gaming Act; and (3) Determine whether the ECGRA received gaming revenue in accordance with the EDF Law, the Gaming Act; the 2008 Ordinance; and the 2010 Settlement Agreement.

The audit period for the first two objectives was April 1, 2022, through March 31, 2024, and for the third objective was April 1, 2021, through March 31, 2024.

Our audit results are contained in three findings with a total of seven recommendations, including three recommendations to ECGRA, three recommendations to Erie County, and one combined recommendation to ECGRA and Erie County. ECGRA **agreed** with the three findings and all recommendations made to them specifically and agreed to work and initiate the process with Erie County on the combined recommendation. We have included our response in the *Auditor's Conclusion to Erie County Gaming Revenue Authority's Response* section of this audit report.

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#### **Finding 1 – ECGRA complied with relevant laws, regulations, and internal policies when approving and administering grants and loans, with one exception related to monitoring.**

We found that ECGRA approved and denied grant applications in accordance with relevant laws, regulations, and internal policies, adhered to the terms of the 2010 Settlement Agreement, distributed loan funding to qualified organizations according to applicable laws and monitored loan money for compliance with the original loan agreements. We also found that ECGRA monitored grant projects to ensure that funds were spent according to grant guidelines, with one exception related to closeout documentation. Our review of 29 judgmentally selected completed grant projects found that in one instance one grant project from 2022 had a closeout report containing documentation from the prior year for the same grant. After investigating the error, we consider this to be an isolated mistake that does not appear to be indicative of a larger problem with monitoring. Therefore, based on our test results, ECGRA monitored grant projects in compliance with the grant guidelines.

We offer **one recommendation** to ECGRA to ensure that the grant closeout reports are accurately reviewed by ECGRA staff. Because operations are small, the limited number of staff reviewing reports necessitates a focused review so that the possibility of errors is minimized.

#### **Finding 2 – Erie County Gaming Revenue Authority complied with the Gaming Act’s public disclosure and spending prohibition requirements.**

We found that ECGRA complied with the Gaming Act’s disclosure and prohibited usage requirements during the audit period by disclosing all expenditures of the local share assessment funds on its publicly accessible website, along with a disclosure statement indicating that the funds originated from licensed gaming activities, and by not using funds to pay for any ECGRA officer’s or employee’s tuition fees or any other educational expense. We offered **no recommendations** to ECGRA for this finding.

#### **Finding 3 – Erie County Gaming Revenue Authority did not receive \$538,248 in gaming revenue it was due from Erie County for the period April 1, 2021, to March 31, 2024.**

The Gaming Act requires the gaming revenue to be split evenly between Erie County and ECGRA with \$1 million of ECGRA’s share going to the Erie County Land Bank. We found that due to an informal, unwritten agreement between ECGRA and Erie County related to quarterly fund distributions, ECGRA did not receive \$538,248 of the gaming funds it was entitled to for the period April 1, 2021, through March 31, 2024. ECGRA and Erie County also did not conduct a year-end reconciliation to ensure that funds are properly distributed in accordance with the Gaming Act.

We offer **two recommendations** to ECGRA and **three recommendations** to Erie County encouraging the parties to work collaboratively to conduct fiscal year end reconciliations to ensure funds are distributed according to the Gaming Act and to settle any differences owed. We



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also made **one joint recommendation** for ECGRA and Erie County to formalize any agreed upon distribution, reconciliation, and settlement procedures in a Memorandum of Understanding, which should be updated periodically and affirm compliance with the Gaming Act.

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## Introduction and Background

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This report by the Department of the Auditor General (Department) presents the results of a performance audit of the Erie County Gaming Revenue Authority (ECGRA). The audit was conducted pursuant to: (1) Section 10 of the Pennsylvania's Economic Development Financing (EDF) Law;<sup>10</sup> (2) Section 1403(c)(2)(ii)(D.2)(IV) of the Pennsylvania Race Horse Development and Gaming Act<sup>11</sup> (Gaming Act); and (3) the Department's primary auditing authority under Sections 402 and 403 of The Fiscal Code<sup>12</sup> (Code). In addition, the performance audit was conducted in accordance with generally accepted *Government Auditing Standards* (GAS), issued by the Comptroller General of the United States.<sup>13</sup>

Our performance audit consisted of the following three objectives and covered the period of April 1, 2022, through March 31, 2024, for the first two objectives and April 1, 2021, through March 31, 2024, for the third objective, with updates where applicable through the end of our audit procedures:

- Determine whether the ECGRA complied with the EDF Law,<sup>14</sup> the Gaming Act,<sup>15</sup> and other relevant state statutes, the 2008 Ordinance,<sup>16</sup> and the Settlement Agreement,<sup>17</sup> as well as internal policies and procedures, as applicable, relevant to the administration and awarding of loans and grants.
- Determine whether expenditures of the local share assessment funds are disclosed on ECGRA's publicly accessible Internet website and include a disclosure that the funds originated from licensed gaming activities, as well as that such funds are not used to pay

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<sup>10</sup> 73 P.S. § 380, as last amended by Act 36 of 1975. Please note that under the EDF Law, the ECGRA, as an industrial and commercial development authority, is a public instrumentality of the commonwealth and a public body corporate and politic as incorporated under the law. *See* 73 P.S. §§ 374 (related to Method of incorporation...) and 376 (relating to Purposes and powers; general).

<sup>11</sup> 4 Pa.C.S. § 1403(c)(2)(ii)(D.2)(IV), as reenacted and amended by Act 42 of 2017 and affected by Act 24 of 2021, effective July 1, 2021.

<sup>12</sup> 72 P.S. §§ 402 and 403 and Pa. Const. art. VIII, Sec. 10. *See also Dep't of the Aud. Gen. v. State Emp. Ret. Sys.*, 860 A.2d 206, 214 (Pa. Cmwlth., 2004).

<sup>13</sup> U.S. Government Accountability Office. *Government Auditing Standards*. 2018 Revision Technical Update April 2021.

<sup>14</sup> 73 P.S. § 371 *et seq.* (enacted by Act 102 of 1967, as amended).

<sup>15</sup> 4 Pa.C.S. § 1101 *et seq.* (enacted by Act 71 of 2004, as amended by Act 135 of 2006 and reenacted and amended by Act 42 of 2017).

<sup>16</sup> Ordinance Number 231, 2008, amending Ordinance Number 167, enacted by the County Council of the County of Erie on November 14, 2008.

<sup>17</sup> December 13, 2010, Settlement Agreement in the matter of *Summit Township Industrial & Economic Development Authority et al. v. ECGRA and Erie County*, Erie Cnty. Ct. Cm. Pl. 14961-2009.

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for the tuition or other educational expenses of an officer or employee of ECGRA, all of which is required by the Gaming Act.<sup>18</sup>

- Determine whether the ECGRA received gaming revenue in accordance with the EDF Law, the Gaming Act, the 2008 Ordinance, and the 2010 Settlement Agreement.

Our methodology to satisfy our objectives, along with our evaluation of management's internal controls significant to the objectives, is included in *Appendix A* of this audit report.

In the sections that follow, we provide background information specific to Pennsylvania's gaming laws and the establishment of the ECGRA, the board of directors and staff, and ECGRA's grant and loan projects and processes.

### Pennsylvania's Gaming Laws and the Establishment of ECGRA

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The Pennsylvania Race Horse Development and Gaming Act,<sup>19</sup> enacted in 2004, authorized horse racetracks and other gaming activities and created the State Gaming Fund. This act allowed for a portion of gaming revenues to be returned to counties in which the licensed facilities are located, and those funds are administered by the local economic development or redevelopment authority. Under the Gaming Act, the Erie County government receives **half of the funds**, and the remainder is invested in community projects and initiatives to bolster the Erie County economy.<sup>20</sup>

The Erie County Gaming Revenue Authority (ECGRA), established in 2008,<sup>21</sup> administers funding received from the county's share of state gaming revenue to community organizations. ECGRA was founded based upon the framework established in the 2004 Gaming Act and is funded primarily through revenue generated from the Presque Isle Downs & Casino.<sup>22</sup> The purpose of ECGRA is to distribute the state gaming revenue received pursuant to the Gaming Act, as well as invest, manage, and deploy these funds pursuant to the EDF Law.<sup>23</sup> ECGRA's mission is:

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<sup>18</sup> 4 Pa.C.S. § 1403(c)(2)(ii)(D.2)(I)-(III) (which was part of the reenactment and amendment of the Gaming Act brought about by Act 42 of 2017).

<sup>19</sup> 4 Pa.C.S. § 1403, as reenacted and amended by Act 42 of 2017.

<sup>20</sup> See 4 Pa.C.S. § 13A63(1)(i) pertaining to local share assessment; <https://www.ecgra.org/history> (accessed December 19, 2024). This gaming revenue received by ECGRA is in the form of restricted funds. These funds are to be used exclusively for grants for health, safety, and economic development projects to municipalities within the county where the licensed facility is located. See 4 Pa.C.S. § 1403.

<sup>21</sup> Ordinance Number 231, 2008, amending Ordinance Number 167, enacted by the County Council of the County of Erie on November 14, 2008.

<sup>22</sup> Erie County Gaming Revenue Authority Single Audit Year Ended March 31, 2024, with Independent Auditor's Report. pg. 9.

<sup>23</sup> By-Laws of Erie County Gaming and Revenue Authority, Section 1.03. Purpose.

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*“To elevate Erie County by empowering nonprofits and small businesses toward economic and community development.”<sup>24</sup>*

In 2010, ECGRA entered into a settlement agreement with Summit Township and other local townships stemming from previous litigation regarding the administration of restricted and uncommitted funds from gaming revenue. The Erie County Court of Common Pleas determined the restricted funds must be used for municipal grants in the proper municipalities for infrastructure, emergency services, and other local expenses and required ECGRA to distribute 25 percent of the gross amount of uncommitted restricted gaming funds received to the governmental entities listed in the Settlement Agreement.<sup>25</sup> We discuss the funds provided in the Settlement Agreement in more detail in *Finding 1* of the report.

Act 42 of 2017 amended the 2004 Gaming Act<sup>26</sup> and requires the Pennsylvania Department of Revenue to distribute quarterly funds collected for interactive gaming and slots to the municipalities in which a licensed gaming entity is located.<sup>27</sup> Pursuant to Act 42 of 2017, the revenue from the gaming funds should continue to be split between Erie County and ECGRA, however, \$1 million from ECGRA’s proceeds are required to fund the Erie County Land Bank (Land Bank).<sup>28</sup> We discuss the revenue split between Erie County, ECGRA, and the Land Bank in more detail in *Finding 3* of the report.

### ECGRA Board of Directors and Staff

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ECGRA’s Board of Directors (Board) are appointed by the Erie County Executive with the advice and consent of the Erie County Council.<sup>29</sup> The Board consists of nine members, including one from each of the seven districts within Erie County, who are voting members, and two non-voting members, including the Chairperson of the County Council and the County Executive or their designees.<sup>30</sup> ECGRA’s Board appoints an Executive Director who is responsible for

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<sup>24</sup> <https://www.ecgra.org/mission> (accessed March 3, 2025).

<sup>25</sup> December 13, 2010, Settlement Agreement in the matter of *Summit Township Industrial & Economic Development Authority et al. v. ECGRA and Erie County*, Erie Cnty. Ct. Cm. Pl. 14961-2009. Funds are allocated as follows: 45% to Summit Township, then 11% each to Erie County, Greene Township, McKean Township, Millcreek Township, and Waterford Township.

<sup>26</sup> As also amended by Act 135 of 2006.

<sup>27</sup> 4 Pa.C.S. § 1403(c)(2)(ii)(D.2)(IV), as reenacted and amended by Act 42 of 2017.

<sup>28</sup> Ibid. and <https://www.eriecountylandbank.org/about/> (accessed January 22, 2025). The Erie County Land Bank was created to acquire, hold, and transfer interest in real property throughout Erie County to deter the spread of blight, promote redevelopment and reuse of vacant, abandoned, and tax-delinquent properties, support targeted efforts to stabilize neighborhoods, and stimulate residential, commercial and industrial development. The Erie County Land Bank is working in alignment with the goals and priorities of local government partners and community stakeholders.

<sup>29</sup> By-Laws of Erie County Gaming and Revenue Authority, Section 2.03. Number and Term of Office.

<sup>30</sup> Ibid. Members serve five-year terms and there is no prohibition against the reappointment of a member at the end of the term.

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managing the affairs of ECGRA, subject to the oversight of the Board.<sup>31</sup> In addition to the Executive Director, ECGRA also employs a Grants Manager and an Office Manager.

### ECGRA Grant and Loan Projects and Processes

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According to its mission, ECGRA practices impact investing, which takes into account the social, cultural, and environmental effects of investments, in addition to the financial returns. As an impact investor, ECGRA aims to effect change in the five specific areas discussed in more detail below.<sup>32</sup>

- **Small Business:** To boost Erie's private sector and enhance the entrepreneurial environment by promoting small business growth, fostering partnerships for business advancement, and providing a plethora of financial options for starting, growing, and reinventing small businesses. Programs include *the Beehive Network*, *Erie Innovation District*, *TechCelerator*, *Erie Inclusive Fund*, and *Ignite Erie*.
- **Youth and Education:** To educate Erie's workforce, improve schools and businesses, and reduce poverty. Initiatives include the *Go College Initiative*, *Tech After Hours*, *Eagle's Nest Leadership*, *Summer Jobs and More*, *Erie's Community College Plan*, and *Community Schools*.
- **Quality of Place:** To boost wellbeing, cultivate community pride, stimulate tourism, as well as spark creative talent through cultural, heritage, service, and recreational organizations and projects. Grant and endowment funds are currently at work for *Lead Assets*, *Special Events*, and *Community Assets*.
- **Neighborhoods and Local Communities:** To revitalize communities and primary streets, improve buy-local commerce, and battle blight. Current projects include *Mission Main Street Grants*, *Renaissance Block Program*, and *the Anchor Building Program*.
- **Municipalities:** To encourage progress and productive cooperation between Erie County's 38 municipal governments. Current programs include the *Multi-Municipal Collaboration Grants* and *Local Government Development*.

According to the ECGRA's website, it has invested more than \$77 million in Erie County since its inception.<sup>33</sup>

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<sup>31</sup> By-Laws of Erie County Gaming and Revenue Authority, Section 4.10. The Executive Director.

<sup>32</sup> <https://www.ecgra.org/mission> (accessed March 3, 2025).

<sup>33</sup> Ibid.

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#### *Grant Process*

ECGRA employs a process for distributing grants aimed at enhancing Erie's local communities. ECGRA's staff conducts research to identify funding gaps within the community and potential avenues for making local investments through grant programs. Staff present the potential grant programs to the Board for approval. Once approved, staff develops draft grant guidelines indicating who is eligible to apply for the grants, along with maximum grant amounts, and matching fund requirements. To ensure community alignment, ECGRA staff also organizes public workshops, gathering feedback and suggestions for refining the guidelines prior to final Board approval. Once approved, ECGRA launches and publicizes the grant program, opening applications to eligible organizations. Eligibility extends to non-profits, municipalities, and authorities, though each grant program maintains specific criteria regarding organizational types and project nature. Below we discuss the application process in more detail.

#### Application Process

- Applicant responsibilities:
  - ◇ Initiate the grant process by completing an application, including confirming eligibility criteria
  - ◇ Create an account on ECGRA's electronic system to submit the application
  - ◇ Provide organizational details, contact information, and board/management data
  - ◇ Submit project narratives, goals, timeline, and plans
  - ◇ Seek assistance from ECGRA staff at any stage
- ECGRA staff review:
  - ◇ Evaluate completed applications for eligibility
  - ◇ Summarize proposed projects and present funding recommendations to the Board
- ECGRA Board committee meeting:
  - ◇ Advertise public meeting
  - ◇ All Board members review and discuss grant applications and reach a consensus on funding decisions<sup>34</sup>
- ECGRA Board approval meeting:
  - ◇ Conduct advertised public meeting
  - ◇ Approve grant funding through formal resolutions
  - ◇ Specify recipient organizations and awarded amounts
- Post-approval process:
  - ◇ ECGRA staff notifies applicants of awarded amounts

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<sup>34</sup> ECGRA holds public Board committee meetings where the committee made up of all Board members deliberate and come to a consensus on which grant applications to fund. There is then a publicly announced formal ECGRA Board Meeting where the Board approves a resolution which provides funding agreed upon for the individual grants.

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- ◇ Applicant signs an agreement listing project conditions and acknowledging requirements
- Project monitoring and close-out:
  - ◇ Grant recipients submit progress reports, as needed, based on project length
  - ◇ Recipients file a close-out report detailing final costs and project outcomes upon project completion.

#### ***ECGRA Loans***

In addition to grants, ECGRA offers loan opportunities designed to support small businesses and attract external investment to the Erie area. The loan program leverages the Community Development Financial Institution (CDFI) Fund, which identifies private organizations committed to aiding struggling communities. By providing these loans to those organizations, ECGRA aims to attract venture capital to Erie, creating a combined financial impact that addresses economic gaps in the community. However, loan awards are rare. Since September 2012, ECGRA's Board approved 10 loans totaling \$7.9 million, with the last being approved in January 2022.<sup>35</sup>

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<sup>35</sup> Erie County Gaming Revenue Authority, Single Audit with Independent Auditor's Report, Year Ended March 31, 2024. Of the ten approved loans, one has been repaid, one has been partially forgiven and converted to a grant, and the remaining eight are still open.

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#### **Finding 1 – ECGRA complied with relevant laws, regulations, and internal policies when approving and administering grants and loans, with one exception related to monitoring.**

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Pennsylvania's Economic Development Financing (EDF) Law<sup>36</sup> allowed for the creation of municipality, township, and/or county development authorities in Pennsylvania, and authorized the authorities to issue grants and loans for industrial, specialized, and/or commercial development projects.<sup>37</sup> The Pennsylvania Race Horse Development and Gaming Act<sup>38</sup> (Gaming Act) regulates gaming activities in Pennsylvania and established guidelines for the funding of county redevelopment authorities from gaming funds of licensed gaming facilities located in the hosting county.<sup>39</sup> The 2008 Erie County Ordinance officially created The Erie County Gaming Revenue Authority (ECGRA).<sup>40</sup>

During this performance audit, we evaluated whether ECGRA complied with the EDF Law,<sup>41</sup> the Gaming Act, and other relevant state statutes, the 2008 Ordinance, and the 2010 Settlement Agreement,<sup>42</sup> as well as internal policies and procedures, as applicable, relevant to the administration and awarding of loans and grants. Our audit period was April 1, 2022, to March 31, 2024.

As part of this audit, we interviewed ECGRA management and reviewed relevant laws, regulations, guidelines, and policies to determine how ECGRA awards and administers loans and grants. We reviewed a selection of grant applications, both approved and denied, to assess whether ECGRA followed its guidelines in making award decisions. We also reviewed documentation for a selection of completed projects to verify the ECGRA grant funds were spent according to the terms of the agreement. Additionally, we ensured ECGRA was providing the proper funding to the governmental entities listed in the Settlement Agreement. Lastly, we reviewed loans ECGRA funded to determine if they were properly approved in accordance with laws and ECGRA guidelines and whether ECGRA effectively monitored the expenditure of the funds.

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<sup>36</sup> 73 P.S. § 371 *et seq.* (enacted by Act 102 of 1967, as amended), *see also* By-Laws of Erie County Gaming and Revenue Authority, Section 1.03. Purpose.

<sup>37</sup> These projects are to aid in the prevention or elimination of blight in the communities the authorities serve. 73 P.S. § 372 (relating to Findings and declaration of policy).

<sup>38</sup> 4 Pa.C.S. § 1101 *et seq.* (enacted by Act 71 of 2004, as amended by Act 135 of 2006 and reenacted and amended by Act 42 of 2017).

<sup>39</sup> 4 Pa.C.S. § 1403, as reenacted and amended by Act 42 of 2017; *see in particular*, 4 Pa.C.S. § 1403(c)(2)(ii)(D).

<sup>40</sup> Ordinance Number 231, 2008, amending Ordinance Number 167, enacted by the County Council of the County of Erie on November 14, 2008.

<sup>41</sup> 73 P.S. § 371 *et seq.*

<sup>42</sup> December 13, 2010, Settlement Agreement in the matter of *Summit Township Industrial & Economic Development Authority et al. v. ECGRA and Erie County*, Erie Cnty. Ct. Cm. Pl. 14961-2009. Funds are allocated as follows: 45 percent to Summit Township, then 11 percent each to Erie County, Greene Township, McKean Township, Millcreek Township, and Waterford Township.



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Our review found that ECGRA:

- Approved and denied grant applications in accordance with relevant laws, regulations, and internal policies.
- Monitored grant projects to ensure that funds were spent according to grant guidelines, with one exception related to closeout documentation.
- Adhered to the terms of the 2010 Settlement Agreement.
- Distributed loan funding to qualified organizations according to applicable laws and monitored loan money for compliance with the original loan agreements.

### **ECGRA approved and denied grant applications in accordance with relevant laws, regulations, and internal policies.**

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ECGRA's Board of Directors (Board) is responsible for approving the types of grant programs ECGRA offers. Once the Board approves the programs, ECGRA develops grant guidelines, which outline the types of projects and entities that are eligible for funding and the amount of required matching funds. Applications received are reviewed by ECGRA staff to ensure eligibility criteria are met. All grant projects must be located within Erie County and fund projects related to human services, infrastructure, facilities, emergency services, or health and public safety.<sup>43</sup> ECGRA staff presents the Board with a project summary and recommendation, but the Board is ultimately responsible for approving or denying the grant and determining the grant amount.

#### *Review of Approved Grant Projects*

During our audit period from April 1, 2022, to March 31, 2024, ECGRA approved 208 grant projects. We judgmentally selected 35 approved grant applications to review for compliance with ECGRA's approval process.<sup>44</sup> We found that:

- All projects were eligible according to the EDF Law and the 2008 Ordinance and were located in Erie County as required.

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<sup>43</sup> Ordinance Number 231, 2008, amending Ordinance Number 167, enacted by the County Council of the County of Erie on November 14, 2008.

<sup>44</sup> Approved projects were judgmentally selected for our review making sure to include projects approved in both years of the audit period, all grant types, and dollar amounts.

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- All grant applications met the requirements of the grant guidelines, including that the applicant was a nonprofit organization or government entity, and the project goals aligned with the grant program.
- The applicants for the 35 grant applications were able to provide matching funds for their projects, which is a required condition for grant approval.
- ECGRA staff reviewed each application and prepared an Executive Summary, when required, which included its recommendation on whether to approve the grant and the amount of funding for each application that was presented to the Board.
- ECGRA's Board approved the grant applications through board resolutions, as required by the 2008 Ordinance.
- ECGRA entered into grant agreements with each of the applicants for the 35 grants following Board approval detailing how the funds were to be expended.<sup>45</sup>

#### *Review of Denied Grant Projects*

During our audit period, we found that ECGRA's Board also denied funding for 30 grant applications. We judgmentally selected and reviewed five of the denied applications to determine the reasons the projects were denied.<sup>46</sup> According to ECGRA management, some reasons for denial may include: 1) if the applicant is not a nonprofit or government entity, 2) if it is unclear whether the applicant can secure matching funds or has the experience to complete the project, 3) if the applicant submitted a proposal not consistent with the grant program, or 4) if the project's cost would exceed the amount of available funding.

Our review of the five denied grant projects found:

- ECGRA staff reviewed all projects to determine if the grant applications met the requirements of the grant guidelines and provided a summary of its recommendations to the Board, when required.
- ECGRA's Board properly denied funding for the applications based on ECGRA staff recommendations and documented the reasons for the denials.

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<sup>45</sup> Once the project is approved, the grantee must review and accept the grant agreement letter and complete Schedule A to receive the grant funding. This documentation lists and explains the guidelines for expending the grant funds.

<sup>46</sup> Denied projects were judgmentally selected for our review making sure to include projects denied in both years of the audit period, different grant types, and dollar amounts.

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Based on our review, we found that ECGRA approved and denied grant applications in compliance with applicable laws, regulations, and internal policies.

#### **ECGRA monitored grant projects to ensure that funds were spent according to grant guidelines, with one exception related to closeout documentation.**

ECGRA monitors all completed projects as part of its grant guidelines. The goal of the monitoring is to ensure grantees are spending funds according to the grant agreements and the goals of the project. Grantees must submit progress reports to ECGRA if the project is multiyear to show the project's progress, along with a formal request to ECGRA staff for any budget changes, subject to ECGRA staff approval. Grantees are also required to submit closeout reports on ECGRA's electronic system within 30 days following conclusion of the grant agreement. ECGRA primarily reviews the closeout reports to monitor the projects and requires documentation to support what the project accomplished with the grant money. Closeout reports include a project narrative, financial documents with final budgets that show the use of matching funds, pictures of the project, and acknowledgement of ECGRA's support. ECGRA's grant manager is responsible for reviewing closeout reports.

We identified 181 grant projects that were completed during the audit period of April 1, 2022, to March 31, 2024, requiring closeout reports.<sup>47</sup> We judgmentally selected 29 of the completed grant projects to review to determine if ECGRA staff monitored those projects according to its internal policies and guidelines.<sup>48</sup>

Our review of ECGRA's monitoring of the 29 projects found:

- Progress reports were not required for any projects because none of the selected projects were multiyear.
- The grantee did not request any budget changes.
- All projects, except one, had the closeout reports approved by ECGRA staff indicating review of the completed project.

Regarding the noted exception, one grant project from 2022 had a closeout report containing documentation from the prior year for the same grant. As discussed above, the grants manager is responsible for reviewing and approving the closeout reports. In this one case, the grantee

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<sup>47</sup> The number of grant projects that were closed during the audit period is of undetermined reliability, as noted in *Appendix A*. However, this data appears to be the best data available. Although this determination may affect the precision of the numbers we present, there is sufficient evidence in total to support our findings and conclusions.

<sup>48</sup> Completed projects were judgmentally selected for our review making sure to include projects completed in both years of the audit period, different grant types, and dollar amounts.

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submitted the prior year's closeout form with the current year's date causing the grants manager to misread the report due to the wrong date. We consider this to be an isolated mistake that does not appear to be indicative of a larger problem with monitoring. Therefore, based on our test results, ECGRA is monitoring grant projects in compliance with the grant guidelines.

### ECGRA adhered to the terms of the 2010 Settlement Agreement.

ECGRA is required to distribute 25 percent of the gross amount of uncommitted restricted gaming funds it receives to Summit Township and other eligible governmental entities according to the 2010 Settlement Agreement which arose due to litigation from Summit Township regarding the administration of restricted and uncommitted funds from gaming revenue. As discussed more fully in *Finding 3*, ECGRA receives five distributions of gaming funds from Erie County each year. The table below shows the amount of revenue received by ECGRA during our audit period from April 1, 2022, to March 31, 2024, and the amounts ECGRA provided to the governmental entities from the 2010 Settlement Agreement.

Total Amount of Funds Provided to Members of the 2010 Settlement Agreement from April 1, 2022, to March 31, 2024		
	2022-23	2023-24
Total Revenue Erie County Provided to ECGRA	\$6,017,380	\$6,048,913
25 percent of total revenue	\$1,504,345	\$1,512,228
Amounts provided per the 2010 Settlement Agreement:		
Summit Township (45 percent)	\$679,955	\$680,503
Greene Township (11 percent)	\$165,478	\$166,345
McKean Township (11 percent)	\$165,478	\$166,345
Millcreek Township (11 percent)	\$165,478	\$166,345
Waterford Township (11 percent)	\$165,478	\$166,345
Erie County (11 percent)	\$165,478	\$166,345
<b>Subtotal</b>	<b>\$1,504,345</b>	<b>\$1,512,228</b>

Source: Department of Revenue distribution letters to Erie County and ECGRA's Expense Transaction Detail Report.

Based on our review, we found that ECGRA provided 25 percent of the funding it receives from Erie County to the entities listed in the Settlement Agreement pursuant to the required percentages.

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#### **ECGRA distributed loan funding to qualified organizations according to applicable laws and monitored loan money for compliance with the original loan agreements.**

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The EDF Law allows ECGRA to also issue loans to finance projects. The EDF Law states any development authority created under this law is permitted to finance loans and create loan agreements with project applicants.<sup>49</sup> The Gaming Act does not prohibit authorities like ECGRA from issuing loans. According to ECGRA representatives, ECGRA partners with qualified organizations to provide loan financing to organizations for projects in Erie County. The goal of the loans is to attract investment in the Erie region through infrastructure improvements, revitalizing public areas, and uplifting Erie communities. The loan application process is similar to the grant process in that the applicants must provide proper documentation to prove they are qualified, the ECGRA Board approves the terms of providing the funds, and the loan recipients must be eligible for the funds according to relevant laws and ECGRA guidelines. ECGRA also monitors the distribution of the loan funds to ensure funds are spent and payments are made in compliance with the loan agreement.

We identified 10 loans that ECGRA distributed which were in process during the audit period. We judgmentally selected three loans to review, taking into consideration the dates of the loans and the loan amounts.<sup>50</sup>

Our review found that:

- Each loan application had the required documentation, such as proof of matching funds required by loan recipients, balance sheets, and previous audits of the applicant.
- The ECGRA Board approved each loan and agreed to loan terms with the organizations.
- All loan recipients were eligible for the loans according to applicable laws and ECGRA guidelines.
- ECGRA monitored the expenditure of loan funds.
- Loan recipients submitted payments in a timely manner and in compliance with the loan agreements.

Based on our test results, ECGRA followed the relevant laws and internal policies related to the financing and distribution of loans. ECGRA also monitored the loans it currently finances.

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<sup>49</sup> 73 P.S. § 376. (relating to Purposes and powers; general).

<sup>50</sup> Loans in process were judgmentally selected for our review making sure to include loans made to different organizations and dollar amounts.

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#### **Conclusion**

We determined that ECGRA complied with the EDF Law, the Gaming Act, and the 2008 Ordinance, as well as internal policies and procedures, related to the awarding or denial of grants and loans. Additionally, ECGRA effectively monitored grant and loan projects to ensure that funds were spent according to grant guidelines, with one exception related to closeout documentation that was provided for the wrong fiscal year, which we considered to be an isolated incident. Finally, ECGRA provided funds to the eligible governmental entities in accordance with the 2010 Settlement Agreement.

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#### **Recommendations for Finding 1**

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We recommend that ECGRA:

1. Ensure that the grant closeouts are accurately reviewed by ECGRA staff. Because operations are small, the limited number of staff reviewing reports necessitates a focused review so that the possibility of errors is minimized.

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#### **Finding 2 – Erie County Gaming Revenue Authority complied with the Gaming Act’s public disclosure and spending prohibition requirements.**

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As part of this performance audit, we assessed whether Erie County Gaming Revenue Authority (ECGRA) complied with the public disclosure and spending prohibition requirements of the Gaming Act<sup>51</sup> during our audit period of April 1, 2022, through March 31, 2024. Our audit objective was to determine whether expenditures of the local share assessment funds are disclosed on ECGRA’s publicly accessible Internet website and include a disclosure that the funds originated from licensed gaming activities, as well as that such funds are not used to pay for the tuition or other educational expenses of an officer or employee of ECGRA, all of which is required by the Gaming Act.<sup>52</sup>

Our review found that ECGRA complied with the Gaming Act’s disclosure and prohibited usage requirements during the audit period by:

- Disclosing all expenditures of the local share assessment funds on its publicly accessible website, along with a disclosure statement indicating that the funds originated from licensed gaming activities; and
- Not using funds to pay for any ECGRA officer’s or employee’s tuition fees or any other educational expense.

As part of our audit procedures, we interviewed ECGRA management, performed testing procedures, and obtained supporting documentation, as described in the following sections.

#### **ECGRA complied with the Gaming Act’s public disclosure requirements of local share assessment funds.**

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The Gaming Act requires ECGRA to publicly disclose each expenditure of the local share assessment funds on its public website.<sup>53</sup> We reviewed ECGRA’s publicly accessible website and found that ECGRA posted a detailed transaction list of expenditures for each month for the

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<sup>51</sup> Entitled the “Pennsylvania Race Horse Development and Gaming Act”, 4 Pa.C.S. § 1101 *et seq.*, Act 71 of 2004, as amended). *See in particular*, 4 Pa.C.S. § 1403(c)(2)(ii)(D.2)(I)-(III) (which was part of the reenactment and amendment of the Gaming Act brought about by Act 42 of 2017).

<sup>52</sup> Ibid. Specifically, the related requirements of Section 1403(c)(2)(ii)(D.2) include: “(I) Each expenditure of the local share assessment funds by the authority shall be disclosed on the authority’s **publicly accessible Internet website**. (II) Local share assessment funds received by the authority **may not be used to pay for tuition or other educational expenses of an officer or employee** of the authority. (III) Each expenditure of local share assessment funds by the authority shall include **a disclosure that the funds originated from licensed gaming activities.**” (Emphases added).

<sup>53</sup> 4 Pa.C.S. § 1403(c)(2)(ii)(D.2)(I).

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audit period of April 1, 2022, through March 31, 2024. Additionally, we selected 25 of a total of 744 transactions from the expenditure transaction list and determined the supporting documentation, including but not limited to invoices, agreed to the description and amount of the transactions posted in the detailed transaction list.<sup>54</sup>

The Gaming Act also requires ECGRA to publicly disclose that all funds originate from licensed gaming activity on its publicly accessible website.<sup>55</sup> We found that ECGRA's publicly accessible website contained language that states:

An impact investing organization, ECGRA's mission is to empower the nonprofit sector, municipal governments, and economic development agencies to revitalize Erie County. ECGRA is endowed with local share gaming revenue from the Commonwealth of Pennsylvania via the Horse Race Gaming Act. Local share gaming revenue is an assessment of the licensed gambling industry of Pennsylvania.<sup>56</sup>

Therefore, we determined that ECGRA complied with the Gaming Act's requirements to publicly disclose each expenditure of the local share assessment funds on its website and to include a statement indicating that the funds come from licensed gaming activities.

### **ECGRA complied with the Gaming Act's prohibition on using local share assessment funds for tuition or educational expenses.**

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The Gaming Act includes a spending restriction that states that ECGRA may not use local share assessment funds to pay for tuition or other educational expenses of an officer or employee of ECGRA.<sup>57</sup> ECGRA management indicated that during our audit period, there were no tuition or educational expenses for employees (which includes any ECGRA officers). As part of our review to verify this statement, we performed the following procedures for the period of April 1, 2022, through March 31, 2024:

- Scanned all expenditures listed on the monthly detailed transaction expenditure list and credit card statements to determine if the description of the expenditures could potentially be for educational expenses.
- For the 25 transactions from the monthly transaction detailed expenditure list selected as noted above, we reviewed supporting documentation, including but not limited to

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<sup>54</sup> We systemically selected every 29<sup>th</sup> transaction listed on the detailed transaction list of expenditures during the audit period for review.

<sup>55</sup> 4 Pa.C.S. § 1403(c)(2)(ii)(D.2)(III).

<sup>56</sup> <https://www.ecgra.org/financial-disclosures> (accessed February 6, 2025).

<sup>57</sup> 4 Pa.C.S. § 1403(c)(2)(ii)(D.2)(II).



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invoices, to verify that the description of the expense was accurate and was not used for tuition or educational expense.

- Reviewed the expense statements of the Executive Director for potential educational expenses.

Our review of the above documentation found that ECGRA complied with the Gaming Act's requirement that prohibits the use of local share assessment funds for tuition or other educational expenses of its officers or employees.

### **Conclusion**

We determined that ECGRA complied with the Gaming Act's three requirements<sup>58</sup> added by Act 42 of 2017:

- to publicly disclose each expenditure of the local share assessment funds on its website;
- to include a statement indicating that the funds come from licensed gaming activities; and
- there was no use of local share assessment funds for tuition or other educational expenses of its officers or employees.

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<sup>58</sup> 4 Pa.C.S. § 1403(c)(2)(ii)(D.2) include: "(I) Each expenditure of the local share assessment funds by the authority shall be disclosed on the authority's publicly accessible Internet website. (II) Local share assessment funds received by the authority may not be used to pay for tuition or other educational expenses of an officer or employee of the authority. (III) Each expenditure of local share assessment funds by the authority shall include a disclosure that the funds originated from licensed gaming activities."

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### Erie County Gaming Revenue Authority

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#### **Finding 3 – Erie County Gaming Revenue Authority did not receive \$538,248 in gaming revenue it was due from Erie County for the period April 1, 2021, to March 31, 2024.**

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The 2004 Pennsylvania Race Horse Development and Gaming Act (Gaming Act) required that a portion of gaming revenues be returned to counties in which the licensed facilities are located through the local share assessment.<sup>59</sup> Presque Isle Downs & Casino is the sole licensed facility located in Erie County, and under the original 2004 Gaming Act, 50 percent of the local share assessment was to be distributed to Erie County and the remaining 50 percent was to be used for the purpose of making municipal grants.<sup>60</sup> The Erie County Gaming Revenue Authority (ECGRA) was established by ordinance in 2008 to administer the share of funding to be used for providing municipal grants.<sup>61</sup>

Subsequently, Act 42 of 2017 amended the Gaming Act and required the Erie County Land Bank (Land Bank)<sup>62</sup> to receive \$1 million annually, which is taken from ECGRA's portion of the local share assessment and paid on a priority basis.<sup>63</sup> Therefore, Erie County should annually receive \$1 million more than ECGRA from the local share assessment.<sup>64</sup> The Pennsylvania Department of Revenue (DOR) is responsible for providing the gaming funds to Erie County, which is then responsible for distributing required portions of the funding to ECGRA and the Land Bank.

During this performance audit, we evaluated whether ECGRA received the required amount of the local share assessment funds in accordance with the Gaming Act during the audit period of April 1, 2021, to March 31, 2024. As part of our audit, we reviewed relevant laws, regulations, and agreements and conducted interviews with ECGRA management to gain an understanding of the requirements of and process for how gaming funds are received by ECGRA through

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<sup>59</sup> 4 Pa.C.S. § 1403(b), Act 71 of 2004, as amended by Act 135 of 2006 and Act 1 of 2010 (subsequently followed by the reenactment and slight amendment of Subsection (b) in accordance with Act 42 of 2017).

<sup>60</sup> 4 Pa.C.S. § 1403(c)(2)(ii)(D), Act 71 of 2004 (not amended until reenactment pursuant to Act 42 of 2017). *See also* 4 Pa.C.S. § 13A63(b)(1)(i) pertaining to local share assessment and the fifty percent distribution.

<sup>61</sup> Ordinance Number 231, 2008, amending Ordinance Number 167, enacted by the County Council of the County of Erie on November 14, 2008.

<sup>62</sup> 4 Pa.C.S. § 1403(c)(2)(D.1), as reenacted and amended by Act 42 of 2017. *See also* <https://www.eriecountylandbank.org/about/> (accessed January 22, 2025). The Erie County Land Bank was created to acquire, hold, and transfer interest in real property throughout Erie County to deter the spread of blight, promote redevelopment and reuse of vacant, abandoned, and tax-delinquent properties, support targeted efforts to stabilize neighborhoods, and stimulate residential, commercial and industrial development. The Erie County Land Bank is working in alignment with the goals and priorities of local government partners and community stakeholders.

<sup>63</sup> Subsection (D.1) of Section 1403(c)(2) of the act provides, in part, that \$1 million is intended to go to the county redevelopment authority (i.e., ECGRA), only “[u]ntil a land bank jurisdiction is established by a county of the third class which is also a home rule county after the effective date” of the subsection. (Emphasis added). Therefore, under the plain meaning requirement (i.e., common and approved usage) of the Statutory Construction Act of 1972, it is a reasonable interpretation that the \$1 million should be distributed to the land bank before the ECGRA and Erie County itself. *See* 4 Pa.C.S. § 1403(c)(2)(D.1) and 1 Pa.C.S. § 1903.

<sup>64</sup> 4 Pa.C.S. § 1403(c), as reenacted and amended by Act 42 of 2017.

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disbursements from Erie County. Further, we examined the amount of gaming funds received by ECGRA and determined whether ECGRA was receiving its required share of those funds. We also corresponded with representatives of Erie County regarding its required distributions of those funds.

Our review found that after passage of Act 42 of 2017 (amending the Gaming Act), an informal, unwritten agreement between Erie County and ECGRA<sup>65</sup> was initiated by Erie County in May 2018 in an effort to address payment of the priority \$1 million Land Bank share of the gaming revenue that resulted in ECGRA not receiving \$538,248 of the funds it was owed during the audit period. This informal, unwritten agreement is discussed in detail in the final section of this finding.

#### Required change in gaming revenue distributions

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According to Act 42 of 2017, DOR provides Erie County with **five distributions** of gaming funds on an annual basis.<sup>66</sup> We obtained the letters provided from DOR to Erie County detailing the amount of gaming funds provided from April 1, 2021, to March 31, 2024.

Our review found that for the **first quarter distribution**, Erie County allocates half of the total funds to the Land Bank, and the remaining funds are allocated 55 percent to Erie County and 45 percent to ECGRA, based upon an informal agreement discussed in the subsequent section below. For the **second quarter distribution**, Erie County provides the Land Bank with funds to ensure that it reaches its required \$1 million in total funding and the remaining **second quarter distribution** is again split 55 percent to Erie County and 45 percent to ECGRA. For the **third and fourth quarter distributions**, as well as the one-time disbursement of Interactive Gaming Funds,<sup>67</sup> Erie County again allocates 55 percent to itself and the remaining 45 percent to ECGRA.

Based on our analysis of the gaming revenue distributions, the table below shows the total funds provided by DOR to Erie County, and the amounts distributed by Erie County to itself, ECGRA, and the Land Bank for the distributions during each of the three years of the audit period.

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<sup>65</sup> Please note that this informal agreement has not been committed to in writing.

<sup>66</sup> There are four quarterly distributions of the Local Share Assessment from Gross Terminal Revenue, Interactive Gaming Funds, and the Slot Machine License Operation Fee, plus a separate distribution of Interactive Gaming Funds (*see Gaming Revenue Distribution Chart* for further details).

<sup>67</sup> Revenues from Interactive Gaming are disbursed as a separate distribution between the Second Quarter and Third Quarter distributions of the local share assessment from Gross Terminal Revenue. Interactive gaming is the placing of wagers with an interactive gaming certificate holder or interactive gaming operator using a computer network of Federal and non-Federal interoperable packet with switched data networks through which an interactive gaming certificate holder may offer authorized interactive games to registered players. The term includes the placing of wagers through the use of a multiuse computing device. *See* 4 Pa.C.S. §§ 1202(b)(36) and 13B02.

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Gaming Revenue Distributions from April 1, 2021, to March 31, 2024					
	Total Funds from DOR <sup>A</sup>	Revenue Fund Allocations			Difference Between ECGRA/ Land Bank and Erie County <sup>B</sup>
		Land Bank	ECGRA (45 percent)	Erie County (55 percent)	
2021-2022					
Quarter 1	\$1,477,396	\$738,698	\$332,414	\$406,284	
Quarter 2	\$3,017,271	\$261,302	\$1,240,186	\$1,515,783	
Interactive Gaming	\$4,326,531		\$1,946,939	\$2,379,592	
Quarter 3	\$3,111,623		\$1,400,230	\$1,711,393	
Quarter 4	\$3,018,150		\$1,358,167	\$1,659,982	
Subtotal	\$14,950,971	\$1,000,000	\$6,277,937	\$7,673,034	\$395,097
2022-2023					
Quarter 1	\$1,456,700	\$728,350	\$327,758	\$400,593	
Quarter 2	\$3,011,719	\$271,650	\$1,233,031	\$1,507,038	
Interactive Gaming	\$3,928,545		\$1,767,845	\$2,160,700	
Quarter 3	\$3,029,085		\$1,363,088	\$1,665,997	
Quarter 4	\$2,945,907		\$1,325,658	\$1,620,249	
Subtotal	\$14,371,956	\$1,000,000	\$6,017,380	\$7,354,576	\$337,196
2023-2024					
Quarter 1	\$1,334,423	\$667,211	\$300,245	\$366,966	
Quarter 2	\$2,962,868	\$332,789	\$1,183,536	\$1,446,544	
Interactive Gaming	\$4,254,455		\$1,914,505	\$2,339,950	
Quarter 3	\$2,975,283		\$1,338,877	\$1,636,406	
Quarter 4	\$2,914,998		\$1,311,749	\$1,603,249	
Subtotal	\$14,442,027	\$1,000,000	\$6,048,912	\$7,393,115	\$344,203
Total	\$43,764,954	\$3,000,000	\$18,344,229	\$22,420,725	\$1,076,496
Total amount owed to ECGRA when applying the Gaming Act’s distribution requirement of 50 percent to Erie County and 50 percent to ECGRA, including the required \$1 million annual Land Bank distribution that comes from ECGRA’s share of the revenue.					\$538,248
(Total difference of \$1,076,496 should have been split evenly, resulting in ECGRA being owed \$538,248 during the three-year audit period.)					
<sup>A</sup> DOR distributes the local share assessment revenues to Erie County, which is then responsible for distributing the appropriate amount of funds to the Land Bank and ECGRA.					
<sup>B</sup> The amounts in this column show the total amount Erie County received more than ECGRA <u>after</u> Land Bank distributions were deducted from ECGRA’s share of the revenue each year.					

Source: Gaming fund distribution letters from DOR to Erie County from April 1, 2021, through March 31, 2024, detailing the allocation of the local share assessment funds between the Land Bank, ECGRA, and Erie County.

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According to Act 42 of 2017, each year, Erie County should have received only \$1 million more than ECGRA. However, as illustrated in the chart above, Erie County received an amount exceeding the \$1 million more than ECGRA for each year of the audit period. The total amount of \$1,076,496 in excess funds that Erie County received should have been evenly split between Erie County and ECGRA per Act 42 of 2017, resulting in ECGRA being underfunded by \$538,248 for the three-year audit period.

### **Informal, unwritten agreement resulting in \$538,248 underpayment to ECGRA**

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According to ECGRA management, after Act 42 of 2017 was enacted (amending the Gaming Act), Erie County initiated an informal, unwritten agreement with ECGRA regarding how the funds were to be distributed. Because the Land Bank receives its funds in the first two distributions as noted above, Erie County and ECGRA agreed to split the remaining funds 55 percent to Erie County and 45 percent to ECGRA. The apparent purpose of this arrangement was to help ensure that Erie County received \$1 million more in funds than ECGRA at the end of the fiscal year since the Land Bank funds are to come out of ECGRA's portion of revenue according to Act 42 of 2017.

ECGRA management indicated this agreement initially seemed to work when revenues were lower, but as revenue increased, the split resulted in Erie County receiving over \$1 million more in gaming funds annually than ECGRA. However, there is no reconciliation conducted at the end of the fiscal year between ECGRA and Erie County to ensure that funds are properly distributed according to the Gaming Act.

During our review, ECGRA management stated that it believes ECGRA is not receiving its fair share of distributions given the increase in revenue and the fact that there is no year-end reconciliation to ensure compliance with the Gaming Act. ECGRA representatives provided two letters dated July 2023 and June 2024 that were provided to Erie County, which included an analysis and an opinion that ECGRA was not receiving the proper amount of gaming funds due to the informal agreement. Additionally, ECGRA sent a request to Erie County in January 2024 requesting that an annual reconciliation of gaming revenues be performed. ECGRA representatives stated Erie County did not directly respond to ECGRA's three written communications as of March 11, 2025.

We also corresponded with Erie County representatives regarding the informal agreement and disbursement of funds to ECGRA. County representatives confirmed there has been an informal agreement that established the split of 55 percent and 45 percent of the gaming funds as discussed above, and that the split has been standard practice between the two parties since passage of Act 42 of 2017 until present day. Erie County representatives stated that they have not made any determination regarding ECGRA's assertion that the split is no longer providing a

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correct disbursement of funds. Erie County's complete response to our inquiry regarding the agreed upon split of gaming funds is included in *Appendix B* of this report.

#### Conclusion

Based on our audit results, we determined that ECGRA did not receive \$538,248 of the gaming funds it was owed for the period April 1, 2021, to March 31, 2024, due to the informal, unwritten agreement of how funds were distributed on a quarterly basis and the lack of a year-end reconciliation to account and adjust for any differences. Without a year-end reconciliation and distribution adjustment, as needed, this informal, unwritten agreement *does not* ensure that the distribution between Erie County and ECGRA is in accordance with the Gaming Act.

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#### Recommendations for Finding 3

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We recommend that ECGRA work with Erie County to:

1. Request a reconciliation at the end of each fiscal year so that ECGRA can ensure that funds received were in accordance with the Gaming Act, and that any necessary adjustments to amounts between Erie County and ECGRA are timely rectified.
2. Settle the difference of \$538,248 of funds owed to ECGRA from Erie County for the period April 1, 2021, to March 31, 2024. Additionally, ECGRA should work with Erie County to conduct reconciliations for the years prior to and subsequent to the audit period and settle any differences in accordance with the Gaming Act.

We recommend that Erie County:

1. Work with ECGRA to fulfill its obligations to act cooperatively with ECGRA, which was established by its own county ordinance.
2. Conduct a reconciliation at the end of each fiscal year and adjust distributions between Erie County and ECGRA, as necessary, to ensure funds are distributed according to the Gaming Act.
3. Settle the difference of \$538,248 of the funds that ECGRA was due from Erie County for the period April 1, 2021, to March 31, 2024. Additionally, Erie County should work with ECGRA to conduct reconciliations for the years prior to the audit period and settle any differences in accordance with the Gaming Act.

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We further recommend that ECGRA and Erie County:

1. Work collaboratively to enter into a Memorandum of Understanding (MOU), to be updated periodically, that contains the mutual determination by both parties that all provisions of the Gaming Act are to be followed including the requirement that the gaming funds should be distributed 50 percent to Erie County and 50 percent to ECGRA, taking into account that the Land Bank receives \$1 million annually from ECGRA's share of the revenue.<sup>68</sup> The MOU should also include a provision that requires Erie County and ECGRA to conduct annual fiscal year reconciliations, a provision that addresses the timely settlement of differences for any funds owed, and all other outstanding issues necessary to ensure the effectiveness of this cooperative agreement.

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<sup>68</sup> See 4 Pa.C.S. §§ 1403(c)(2)(ii)(D)-(D.1) and 13A63(b)(1)(i).

## **A Performance Audit**

### **Erie County Gaming Revenue Authority**

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#### **Erie County Gaming Revenue Authority's Response and Auditor's Conclusion**

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We provided copies of our draft audit findings and related recommendations to the Erie County Gaming Revenue Authority (ECGRA) for its review. On the pages that follow, we included ECGRA's response in its entirety. Following ECGRA's response is our auditor's conclusion.



## A Performance Audit

### Erie County Gaming Revenue Authority

#### Audit Response from the Erie County Gaming Revenue Authority



April 29, 2025

The Honorable Timothy L. DeFoor  
Auditor General  
Harrisburg, Pennsylvania 17120-0018

RE: Erie County Gaming Revenue Authority  
Audit Response

Dear Auditor General DeFoor:

On behalf of the Board of Directors of the Erie County Gaming Revenue Authority ("ECGRA"), I am pleased to offer this response to the Audit Report your office has issued regarding ECGRA's operations.

Your Audit identified three objectives:

- (1) Whether ECGRA has complied with all applicable laws and policies governing its operations, and whether expenditures are properly disclosed on ECGRA's website;
- (2) Whether the origin of the funding is properly attributed as having originated from licensed gaming activities, and whether funds were not used for prohibited purposes; and
- (3) Whether ECGRA has received all gaming revenue required by law to be distributed to ECGRA by Erie County.

The Audit concluded that ECGRA has complied in all material respects with all applicable laws, that gaming funds were used appropriately, and that Erie County owes additional funding to ECGRA.

Your findings – reached after a comprehensive nine-month review of ECGRA's operations and expenditures – affirms ECGRA's commitment to professionalism, transparency and accountability. They also reflect our dedication to the responsible stewardship of public funds, as well as to the rigorous processes used in development programs, awarding funds, and monitoring their use.

Below, I will address each of your findings individually.

**Finding 1. ECGRA complied with relevant laws, regulations and internal policies when approving and administering grants and loans, with one exception related to monitoring.**

We appreciate your recognition that ECGRA operates in compliance with all relevant laws, regulations and internal policies. As public stewards of gaming funds, our board and staff

#### Board of Directors

Kelly S. Hess  
Chair

Angela Amatangelo  
Vice-chair

Gary J. Winschel  
Treasurer

Perry N. Wood  
Secretary

Whitey Cleaver

Mark B. Louis

Robert S. Oberlander

Darrell A. Smith

Rock Copeland  
Ex-officio

Joseph E. Sinnott  
Ex-officio

Perry N. Wood  
Executive Director

Erie County Gaming Revenue Authority  
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## A Performance Audit

### Erie County Gaming Revenue Authority

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are committed to upholding the highest standards of integrity. Regarding the minor exception concerning a grant closeout report, the staff will implement a close out checklist to strengthen documentation and ensure a consistent review process.

**Finding 2. ECGRA complied with the Gaming Act's public disclosure and spending prohibition requirements.**

We agree in full with this finding, and reaffirm our commitment to integrity, transparency and accountability in all matters.

**Finding 3. ECGRA did not receive \$538,248 in gaming revenue it was due from Erie County for the period of April 1, 2021 to March 31, 2024.**

In July of 2023, ECGRA conducted an internal review of gaming funds receipts from Erie County and determined that the funding distribution model – originally established to comply with Act 21 of 2017 - was no longer functioning as intended. ECGRA communicated this discrepancy to the County in July of 2023, requested a reconciliation of the 2023 funding in January of 2024, and followed up in June of 2024 with an analysis a legal opinion as to the inaccuracy of the funding amounts received. Unfortunately, Erie County did not respond to these communications or initiate a reconciliation process.

ECGRA fully supports your recommendation to establish an annual reconciliation procedure to ensure the accurate and lawful distribution of gaming funds and to ensure that the County remit to ECGRA the underfunded amount of \$538,248. To that end, and per your recommendation, ECGRA has directed its solicitor to prepare a draft Memorandum of Understanding with Erie County to formalize this process and to secure the payment of the outstanding \$538,248. We look forward to working in good faith with the County Executive to fulfill this shared responsibility.

I would also like to express my appreciation for the professionalism and thoroughness demonstrated by your staff throughout this audit. Over the past nine months, ECGRA's staff and legal counsel have collaborated closely with your team in the review of a process that has resulted in the investment of more than \$77,000,000 within Erie County. This process was designed to ensure ethical stewardship of gaming funds, transparency and a positive return on investment for Erie County.

As your audit – and fourteen consecutive years of clean financial audits – demonstrates, ECGRA operates ethically, conducts the public's business with honesty, and leads with transparency and integrity. This model of gaming fund distribution is unique in Pennsylvania, and has proven to be both effective and successful, thanks to the hard work of a committed board of directors, and a professional and responsible staff and advisors.

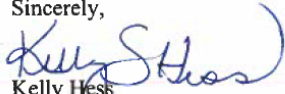
## A Performance Audit

### Erie County Gaming Revenue Authority

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Thank you for your attention to this matter, and the professional manner in which your office has conducted this audit. Please do not hesitate to contact me should you require additional information.

Sincerely,

A handwritten signature in blue ink, appearing to read "Kelly Hess", is written over a light blue horizontal line.

Kelly Hess  
Chairperson of the Board

cc: ECGRA Board of Directors  
Dr. Perry Wood, Executive Director  
Timothy S. Wachter, Esq., Solicitor

## A Performance Audit

### Erie County Gaming Revenue Authority

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#### **Auditor's Conclusion to the Erie County Gaming Revenue Authority's Response**

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The Erie County Gaming Revenue Authority's (ECGRA) management and Board of Directors agreed with our findings and recommendations. Regarding the recommendation for *Finding 1*, we are pleased that management agreed with our recommendation and plans to implement a grant closeout checklist. We believe this action will enhance consistency and strengthen ECGRA's review process over completed projects. While we had no recommendations related to Finding 2, we appreciate that ECGRA reaffirmed its commitment to integrity, transparency, and accountability. ECGRA also responded that it fully supports our recommendations in *Finding 3* to establish an annual reconciliation process and to work with Erie County to establish a Memorandum of Understanding (MOU) formalizing a reconciliation process and detailing the distribution of gaming funds according to the Gaming Act. We commend ECGRA for its planned actions to address our recommendations and appreciate the cooperation and transparency throughout the audit process.

## A Performance Audit

### Erie County Gaming Revenue Authority

#### Appendix A

#### Objectives, Scope, Methodology, and Data Reliability

The Department of the Auditor General conducted this performance audit of the Erie County Gaming Revenue Authority (ECGRA) pursuant to: (1) Section 10 of the Pennsylvania's Economic Development Financing (EDF) Law;<sup>69</sup> (2) Section 1403(c)(2)(ii)(D.2)(IV) of the Pennsylvania Race Horse Development and Gaming Act<sup>70</sup> (Gaming Act); and (3) the Department's primary auditing authority under Sections 402 and 403 of The Fiscal Code<sup>71</sup> (Code). The audit was performed in accordance with generally accepted *Government Auditing Standards* issued by the Comptroller General of the United States.<sup>72</sup> Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives.

#### Objectives

- Determine whether the ECGRA complied with the EDF Law,<sup>73</sup> the Gaming Act,<sup>74</sup> and other relevant state statutes, the 2008 Ordinance,<sup>75</sup> and the Settlement Agreement,<sup>76</sup> as well as internal policies, and procedures, as applicable, relevant to the administration and awarding of loans and grants.
- Determine whether expenditures of the local share assessment funds are disclosed on ECGRA's publicly accessible Internet website and include a disclosure that the funds originated from licensed gaming activities, as well as that such funds are not used to pay for the tuition or other educational expenses of an officer or employee of ECGRA, all of which is required by the Gaming Act.<sup>77</sup>

<sup>69</sup> 73 P.S. § 380, as last amended by Act 36 of 1975. Please note that under the EDF Law, the ECGRA, as an industrial and commercial development authority, is a public instrumentality of the commonwealth and a public body corporate and politic as incorporated under the law. See 73 P.S. § 376, as last amended by Act 74 of 1993.

<sup>70</sup> 4 Pa.C.S. § 1403(c)(2)(ii)(D.2)(IV), as reenacted and amended by Act 42 of 2017.

<sup>71</sup> 72 P.S. §§ 402 and 403, as last amended by Act 4 of 1971 and Act 44 of 2017, respectively, and *Dep't of the Aud. Gen. v. State Emp. Ret. Sys.*, 860 A.2d 206, 214 (Pa. Cmwlth., 2004) and Pa. Const. art. VIII, Sec. 10.

<sup>72</sup> U.S. Government Accountability Office. *Government Auditing Standards*. 2018 Revision Technical Update April 2021.

<sup>73</sup> 73 P.S. § 371 *et seq.* (enacted by Act 102 of 1967, as amended).

<sup>74</sup> 4 Pa.C.S. § 1101 *et seq.* (enacted by Act 71 of 2004, as amended by Act 135 of 2006 and reenacted and amended by Act 42 of 2017).

<sup>75</sup> Ordinance Number 231, 2008, amending Ordinance Number 167, enacted by the County Council of the County of Erie on November 14, 2008.

<sup>76</sup> December 13, 2010, Settlement Agreement in the matter of *Summit Township Industrial & Economic Development Authority et al. v. ECGRA and Erie County*, Erie Cnty. Ct. Cm. Pl. 14961-2009.

<sup>77</sup> 4 Pa.C.S. § 1403(c)(2)(ii)(D.2)(I)-(III) (which was part of the reenactment and amendment of the Gaming Act brought about by Act 42 and affected by Act 24 of 2021, effective July 1, 2021).

## A Performance Audit

### Erie County Gaming Revenue Authority

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- Determine whether the ECGRA received gaming revenue in accordance with the EDF Law; the Gaming Act; the 2008 Ordinance; and the 2010 Settlement Agreement.

## Scope

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Our ECGRA performance audit covered the period April 1, 2022, through March 31, 2024, for the first two objectives and April 1, 2021, through March 31, 2024, for the third objective, with updates, where applicable, through the end of our audit procedures.

ECGRA management is responsible for establishing and maintaining effective internal controls to provide reasonable assurance of compliance with applicable laws, regulations, contracts, grant agreements, and administrative policies and procedures related to its operations. In conducting our audit, we obtained an understanding of ECGRA's internal controls, including information systems controls.

*Standards for Internal Control in the Federal Government* (also known as and hereafter referred to as the Green Book), issued by the Comptroller General of the United States, provides a framework for management to establish and maintain an effective internal control system.<sup>78</sup> We used the framework included in the Green Book to assess ECGRA's internal control system.

The Green Book's standards are organized into five components of internal control. In an effective system of internal control, these five components work together in an integrated manner to help an entity achieve its objectives. The five components contain 17 related principles, listed in the table below, which are the requirements an entity should follow in establishing an effective system of internal control.

We determined that all internal control components were significant to each of the audit objectives. The table below represents a summary of the level of our internal control assessment for effectiveness of design (D); implementation (I); or operating effectiveness (OE) that we performed for each principle. It also includes our conclusions that either no issues were found or notes the finding(s) where we present the issues discovered.<sup>79</sup>

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<sup>78</sup> Even though the Green Book was written for the federal government, it explicitly states that it may also be adopted by state, local, and quasi-government entities, as well as not-for-profit organizations, as a framework for establishing and maintaining an effective internal control system.

<sup>79</sup> U.S. Government Accountability Office. *Standards for Internal Control in the Federal Government*. September 2014. The Green Book, Sections OV3.05 and 3.06, states the following regarding the level of assessment of internal controls. Evaluating the design of internal control includes determining if controls individually and in combination with other controls are capable of achieving an objective and addressing related risks. Evaluating implementation includes determining if the control exists and if the entity has placed the control into operation. Evaluating operating effectiveness includes determining if controls were applied at relevant times during the audit period, the consistency with which they were applied, and by whom or by what means they were applied.

## A Performance Audit

### Erie County Gaming Revenue Authority

Component		Principle	Level of Assessment	Objective	Conclusion
Control Environment	1	The oversight body and management should demonstrate a commitment to integrity and ethical values.	D	1, 2, 3	No issues noted
	2	The oversight body should oversee the entity's internal control system.	D	1, 2, 3	No issues noted
	3	Management should establish an organizational structure, assign responsibility, and delegate authority to achieve the entity's objectives.	D	1, 2, 3	No issues noted
	4	Management should demonstrate a commitment to recruit, develop, and retain competent individuals.	D	1, 2, 3	No issues noted
	5	Management should evaluate performance and hold individuals accountable for their internal control responsibilities.	D	1, 2, 3	No issues noted
Risk Assessment	6	Management should define objectives clearly to enable the identification of risks and define risk tolerances.	D, I	1, 2, 3	No issues noted
	7	Management should identify, analyze, and respond to risks related to achieving the defined objectives.	D	1, 2, 3	No issues noted
	8	Management should consider the potential for fraud when identifying, analyzing, and responding to risks.	D, I	1, 2, 3	No issues noted
	9	Management should identify, analyze, and respond to significant changes that could impact the internal control system.	D	1, 2, 3	No issues noted

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### Erie County Gaming Revenue Authority

Component		Principle	Level of Assessment	Objective	Conclusion
Control Activities	10	Management should design control activities to achieve objectives and respond to risks.	D, I, OE D, I D, I, OE	1 2 3	Finding 1 No issues noted Finding 3
	11	Management should design the entity's information system and related control activities to achieve objectives and respond to risks.	D	1, 2, 3	No issues noted
	12	Management should implement control activities through policies.	D, I D, I	1, 2 3	No issues noted Finding 3
Information and Communication	13	Management should use quality information to achieve the entity's objectives.	D, I	1, 2, 3	No issues noted
	14	Management should internally communicate the necessary quality information to achieve the entity's objectives.	D, I	1, 2, 3	No issues noted
	15	Management should externally communicate the necessary quality information to achieve the entity's objectives.	D, I	1, 2, 3	No issues noted
Monitoring	16	Management should establish and operate monitoring activities to monitor the internal control system and evaluate results.	D	1, 2, 3	No issues noted
	17	Management should remediate identified internal control deficiencies on a timely basis.	D	1, 2, 3	No issues noted

*Government Auditing Standards* require that we consider information systems controls “...to obtain sufficient, appropriate evidence to support the audit findings and conclusions.”<sup>80</sup> This

<sup>80</sup> U.S. Government Accountability Office. *Government Auditing Standards*. 2018 Revision Technical Update April 2021. Paragraph 8.59 through 8.67.



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process further involves determining whether the data that supports the audit objectives is reliable. In addition, Publication GAO-20-283G, *Assessing Data Reliability*, provides guidance for evaluating data using various tests of sufficiency and appropriateness when the data is integral to the audit objective(s).<sup>81</sup> See our assessment in the *Data Reliability* section that follows.

Our procedures to assess the design, implementation, and/or operating effectiveness are discussed in the *Methodology* section that follows. Deficiencies in internal controls we identified during the conduct of our audit and determined to be significant within the context of our audit objectives are summarized in the conclusion section below and described in detail within the respective audit findings in this report. See the table above for descriptions of each of the principle numbers included in the conclusions below.

#### Conclusion for Objective 1

Our assessment of management's internal controls did not find any issues associated with Principles 1-9, and 11-17 as noted in the table above. For Principle 10, in reviewing grant monitoring, we found ECGRA effectively monitored grant and loan projects to ensure that funds were spent according to grant guidelines, with one exception related to closeout documentation that was provided for the wrong fiscal year. See further details in *Finding 1*.

#### Conclusion for Objective 2

Our assessment of management's internal controls did not find any issues associated with the 17 Principles as to design, implementation, and/or operating effectiveness relevant to our objectives, as noted in the table above.

#### Conclusion for Objective 3

Our assessment of ECGRA management's internal controls did not find any issues for Principles 1-9, 11, and 13-17; however, we did identify issues with management's controls regarding Principles 10 and 12. We found there is no reconciliation conducted at the end of the fiscal year between ECGRA and Erie County to ensure that funds are properly distributed according to the Gaming Act. We do note that ECGRA requested an annual reconciliation be performed with Erie County in January 2024, but Erie County did not directly respond to the request. See further details in *Finding 3*.

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<sup>81</sup> U.S. Government Accountability Office. *Assessing Data Reliability*. December 2019.

## A Performance Audit

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#### Methodology

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The following procedures were performed to address the audit objectives. Items selected for testing were based on auditor's professional judgment. The results of our testing, therefore, cannot be projected to, and are not representative of, the corresponding populations.

To satisfy our audit objectives, we performed the following procedures related to all objectives:

- Obtained an understanding of ECGRA's overall organizational structure and purpose, from our review of ECGRA's organizational chart and information published on its website, and from interviews with management. [Principles 1, 2, 3]
- Reviewed responses from ECGRA management regarding internal control questions, the Erie County Administrative Code, the ECGRA employee handbook, the ECGRA By-Laws, and ECGRA employee job descriptions to determine what controls ECGRA designed to establish an effective system of internal control that addresses each of the 17 principles within the five components of internal control. [All Principles]
- Identified the following laws, regulations, ECGRA policies and monitoring procedures to ensure that all projects were awarded accordingly:
  - Pennsylvania's Economic Development Financing Law
  - Pennsylvania Race Horse Development and Gaming Act<sup>82</sup>
  - Ordinance 231 2008<sup>83</sup>
  - 2010 Settlement Agreement<sup>84</sup>
  - ECGRA Internal Policies and Guidelines [Principles 6,10, 12, 13]
  - Erie County Administrative Code<sup>85</sup> – Conflict of Interest Policies [Principle 8]
- Documented an understanding of information technology general controls and data entry controls over Foundant and Quickbooks, which included reviewing the System and Organization Control (SOC) reports and the most recent Peer Review Acceptance Letters for the companies that conducted those reviews and provided the opinion. [Principles 10-12]

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<sup>82</sup> 4 Pa.C.S. § 1403, as reenacted and amended by Act 42 of 2017.

<sup>83</sup> Ordinance Number 231, 2008, amending Ordinance Number 167, enacted by the County Council of the County of Erie on November 14, 2008.

<sup>84</sup> December 13, 2010, Settlement Agreement in the matter of Summit Township Industrial & Economic Development Authority et al. v. ECGRA and Erie County, Erie Cnty. Ct. Cm. Pl. 14961-2009.

<sup>85</sup> Erie County Pennsylvania Administrative Code, Revised and Re-Enacted June 29, 2021. Amended by Ordinance 73, 2021 on September 14, 2021, and Ordinance 92, 2021 on October 26, 2021, pp. 206-210.

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#### For Objective 1:

- Interviewed ECGRA management to obtain an understanding and assess the internal controls in place over the application process and monitoring of loans and grants. [Principles 2, 3, 6-17]
- Reviewed laws, regulations, contracts, grant agreements, and ECGRA policies and procedures to identify potential criteria needed to evaluate the audit objective including:
  - Pennsylvania's Economic Development Financing Law
  - Pennsylvania Race Horse Development and Gaming Act
  - Ordinance 231 2008
  - 2010 Settlement Agreement
  - ECGRA Grant Guidelines [Principles 6, 10, 12, 13]
- Obtained a list of all grant applications approved by ECGRA's Board for the period April 1, 2022, to March 31, 2024. We judgmentally selected 35 of 208 approved projects, making sure to include projects approved in both years of the audit period, all grant types, and dollar amounts. For each of the 35 grants, auditors performed the following:
  - Ensured all projects were eligible according to the EDF Law and the 2008 Ordinance and were located in Erie County as required.
  - Determined all grant applications met the requirements of the grant guidelines, including that the applicant was a nonprofit organization or government entity, and the project goals aligned with the grant program.
  - Ensured the applicants for the 35 grant applications were able to provide matching funds for their projects, which is a required condition for grant approval.
  - Determined ECGRA staff reviewed each application and prepared an Executive Summary, when required, which included its recommendation on whether to approve the grant and the amount of funding for each application that was presented to the Board.
  - Verified ECGRA's Board approved the grant applications through board resolutions, as required by the 2008 Ordinance. [Principles 10, 12, 13, 14]
  - Ensured ECGRA entered into grant agreements with each of the applicants for the 35 grants following Board approval detailing how the funds were to be expended. [Principles 10, 12, 13, 14]
- Obtained a list of all grant applications denied by ECGRA's Board for the period April 1, 2022, to March 31, 2024. We judgmentally selected five of 30 denied projects, making sure to include projects approved in both years of the audit period, all grant types, and dollar amounts. For each of the five denied applications, auditors performed the following: [Principles 10, 12]

## **A Performance Audit**

### **Erie County Gaming Revenue Authority**

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- Ensured ECGRA staff reviewed all projects to determine if the grant applications met the requirements of the grant guidelines and provided a summary of its recommendations to the Board, when required.
- Determined ECGRA's Board properly denied funding for the applications based on ECGRA staff recommendations and documented the reasons for the denials.
- Obtained a list of all grant projects that were closed during the period April 1, 2022, to March 31, 2024. We judgmentally selected 29 of 181 closed projects, making sure to include projects closed in both years of the audit period, all grant types, and dollar amounts. For each of the 29 closed projects, auditors performed the following:
  - Determined if progress reports were required and provided on any multi-year projects.
  - Verified that any budget variances requested by the grantee were approved by ECGRA. [Principles 10, 12]
  - Ensured ECGRA staff were reviewing closeout reports once the projects were completed. [Principles 10, 12]
- Determined ECGRA made payments to the government entities listed in the 2010 Settlement Agreement by reviewing the transaction detail reports from the accounting system and the audited financial statements for the period April 1, 2022, to March 31, 2024.
- Obtained a listing of loans awarded by ECGRA that were open and active during the period of April 1, 2022, through March 31, 2024. We identified ten loans that were active during the audit period and judgmentally selected three loans to review, taking into consideration the dates of the loans and the loan amounts. For each of the three loans, auditors performed the following:
  - Verified each loan application had the required documentation, such as proof of matching funds required by loan recipients, balance sheets, and previous audits of the applicant.
  - Determined ECGRA's Board approved each loan and agreed to loan terms with the organizations. [Principles 10, 12]
  - Ensured all loan recipients were eligible for the loans according to applicable laws and ECGRA guidelines.
  - Determined ECGRA monitored the expenditure of loan funds. [Principles 10, 12]
  - Verified loan recipients submitted payments in a timely manner and in compliance with the loan agreements.

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#### For Objective 2:

- Interviewed ECGRA management to gain an understanding of how ECGRA complies with the Gaming Act's requirement and has implemented a process to publicly disclose expenditures of the local share assessment funds on ECGRA's publicly accessible Internet website and includes a disclosure that the funds originated from licensed gaming activities, as well as that such funds are not used to pay for the tuition or other educational expenses of an officer or employee of ECGRA officers or employees. [Principles 12, 13, 15]
- Reviewed the requirements of the Pennsylvania Race Horse Development and Gaming Act<sup>86</sup> to determine potential criteria needed to evaluate the audit objective.
- Determined that ECGRA was in compliance with the Gaming Act and included expenditures of the local share assessment funds for the audit period of April 1, 2022, through March 31, 2024, and included a disclosure that the funds originated from licensed gaming activities on its publicly accessible website. [Principle 15]
- Obtained all expenditure transactions including any credit card statements from April 1, 2022, through March 31, 2024, and scanned all expenditures listed to determine if the description of the expenditures could potentially be for educational expenses. [Principles 13, 15]
- Systematically selected 25 expenditure transactions (every 29<sup>th</sup> transaction) of 744 total transactions for the period April 1, 2022, through March 31, 2024. We reviewed supporting documentation, including but not limited to invoices, to verify that the description and amount of the expenses were accurate not used for tuition or educational expenses. [Principles 13, 15]
- Obtained the Executive Director's expense reports for the period April 1, 2022, through March 31, 2024, and scanned for any evidence of tuition/educational expenses. [Principles 13, 15]

#### For Objective 3:

- Interviewed ECGRA personnel to gain an understanding of the requirements of and process for how gaming funds are received by ECGRA through disbursements from Erie County. [Principles 2, 3, 6-17]
- Reviewed the Gaming Act to identify criteria needed to evaluate the audit objective, including determining how local share assessment gaming funds are to be distributed.

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<sup>86</sup> 4 Pa.C.S. § 1403, as reenacted and amended by Act 42 of 2017.

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- Obtained copies of distribution emails from the Pennsylvania Department of Revenue (DOR) to Erie County regarding the distribution of gaming funds for the audit period April 1, 2021, to March 31, 2024, and determined the amount of those funds that Erie County distributed to ECGRA.
- Examined whether ECGRA was receiving its required share of the local share assessment funds provided by Erie County for the period April 1, 2021, to March 31, 2024, in accordance with applicable laws.
- Reviewed correspondence from ECGRA representatives to Erie County, including two letters dated July 2023 and June 2024, which included an analysis and an opinion that ECGRA was not receiving the proper amount of gaming funds due to an unwritten informal agreement after the passage of Act 42 of 2017. Additionally, ECGRA sent a request to Erie County in January 2024 requesting that an annual reconciliation of gaming revenues be performed.
- Provided a list of questions to Erie County representatives to obtain their perspective regarding the informal agreement and disbursement of local share assessment funds to ECGRA that established the split of 55 percent and 45 percent of the gaming funds that has been standard practice between the two parties since passage of Act 42 of 2017 until present day, and to determine if the funds have been correctly distributed to ECGRA.

### Data Reliability

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*Government Auditing Standards* require us to assess the sufficiency and appropriateness of computer-processed information that we used to support our findings, conclusions, and recommendations. The assessment of the sufficiency and appropriateness of computer-processed information includes the considerations regarding the completeness and accuracy of the data for the intended purposes.<sup>87</sup>

In addition to the procedures described in the remainder of this section, as part of our overall process in obtaining assurance of the reliability of computer-processed information and data files, we obtained a management representation letter from ECGRA. This letter, signed by ECGRA management, included a confirmation statement indicating the information and data provided to us had not been altered and was a complete and accurate duplication of the data from its original source.

For Objective 1, to assess the completeness and accuracy of the grant data and populations, we conducted the following procedures:

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<sup>87</sup> U.S. Government Accountability Office. *Government Auditing Standards*. 2018 Revision Technical Update April 2021. Paragraph 8.98.

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- Obtained an understanding of the Foundant system that ECGRA used to accept, review, and approve project applications and supporting documents. [Principle 11]
- Documented our understanding of the IT environment. [Principle 11]
- Obtained a list of all grant applications that were approved or denied by ECGRA from April 1, 2022, to March 31, 2024. The list was in the form of an Excel file exported from its grant management system, Foundant.
  - To identify approved grant applications, we filtered the Excel file to list all approved projects during the audit period. We compared the Excel file of all grants approved during the audit period to the resolutions found in the Board of Director minutes documenting the Board's approval of the grants. We determined that all grants listed in the Foundant system were approved by board resolutions.
  - To identify denied grant applications, we filtered the Excel file to list all projects denied during the audit period. We compared the Excel file of all grants denied during the audit period to the resolutions found in the Board of Director minutes documenting the Board's denial of the grants. We determined that all grants listed in the Foundant system were denied by board resolutions.

To assess the completeness and accuracy of the loan data and populations, we conducted the following procedures:

- ECGRA distributed ten loans which were open during the audit period. The loans provided by ECGRA were agreed to the Audited Financial Statements.

Based on the data reliability procedures performed, we found no limitations for using the data files from ECGRA's Foundant system for approved and denied grants and the loan data for our intended purposes. In accordance with *Government Auditing Standards*, we concluded that the ECGRA data was sufficiently reliable for the purposes of this engagement.

- ECGRA also provided a list of all grant projects that were closed from April 1, 2022, to March 31, 2024. The list was in the form of an Excel file exported from its grant management system, Foundant. We filtered the spreadsheet to only include projects which were closed during the audit period.
  - We traced certain information to supporting documents and reports; however, we could not verify the completeness of this list. For example, we reviewed the board minutes provided by ECGRA containing resolutions that showed the approved grants and compared those to the grant projects approved in the spreadsheet provided by ECGRA showing grant information in the Foundant system. All grants in the system were consistent with grants appearing in the resolutions, but we were unable to ascertain how many projects should have been completed

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### **Erie County Gaming Revenue Authority**

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because the data did not contain information regarding the timeframe of the project.

Therefore, we concluded that the data for closed projects was of undetermined reliability. However, the information from these files and lists was the best available. Even though this determination may affect the precision of the numbers we present, there is sufficient evidence in total to support our findings, conclusions, and recommendation.

For Objectives 2 and 3, we assessed data from ECGRA's QuickBooks accounting system, and included the following procedures:

- Obtained an understanding of the QuickBooks accounting system that ECGRA used to record revenues and expenses. [Principle 11]
- Documented our understanding of the IT environment. [Principle 11]
- Agreed the totals from the detailed expenditure transactions from QuickBooks, ECGRA's accounting system with the ECGRA's independent auditor's report for the fiscal years ended March 31, 2022, and 2023. (Objective 2)
- Reviewed supporting documentation, including but not limited to invoices, for 25 of 744 expenditure transactions from April 1, 2022, to March 31, 2024, to verify that the description and amount of the expenses were accurate as noted in our Methodology section. (Objective 2)
- Agreed the total local share revenue received by ECGRA as shown in its accounting system, QuickBooks, with the distribution letters from the Department of Revenue detailing the amounts Erie County provided to ECGRA, and ECGRA's independent auditor's report for the period April 1, 2022, to March 31, 2024. (Objective 3)

Based on the data reliability procedures performed, we found no limitations for using the expenditure and revenue data files obtained from QuickBooks for our intended purposes. In accordance with *Government Auditing Standards*, we concluded that the ECGRA data was sufficiently reliable for the purposes of this engagement.



## A Performance Audit

### Erie County Gaming Revenue Authority

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#### Appendix B

#### Response from Erie County representatives regarding the distribution of gaming funds to ECGRA

As discussed in *Finding 3*, after Act 42 of 2017 was enacted (amending the Gaming Act), Erie County initiated an informal, unwritten agreement with the Erie County Gaming and Revenue Authority (ECGRA) agreeing to split gaming funds 55 percent to Erie County and 45 percent to ECGRA after Act 42 of 2017 was enacted. This arrangement was intended to ensure Erie County received \$1 million more than ECGRA annually due to the Land Bank funding coming from ECGRA's share of funding. During our review, we found ECGRA did not receive \$538,248 in gaming revenue it was due from Erie County for the period April 1, 2021, to March 31, 2024, as a result of this agreement. We corresponded with Erie County representatives regarding the informal agreement and disbursement of gaming funds to ECGRA. Erie County representatives confirmed there has been an informal agreement that established the split of 55 percent and 45 percent of the gaming funds. The following is Erie County's complete response to our inquiry regarding the agreed upon split.

## A Performance Audit

### Erie County Gaming Revenue Authority

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## COUNTY OF ERIE

### OFFICE OF THE COUNTY SOLICITOR

Brenton Davis,  
County Executive

William S. Speros,  
County Solicitor

January 17, 2025

VIA ELECTRONIC MAIL (mwieczorek@paauditor.gov)

Bureau of Performance Audits  
Attn: Mark Wieczorek, Audit Manager  
Department of the Auditor General  
Commonwealth of Pennsylvania

**Re: Audit of Erie County Gaming Revenue Authority**

Dear Mr. Wieczorek:

I write in connection with your ongoing audit of the Erie County Gaming Revenue Authority (ECGRA). Per our telephone discussion on January 16, 2025, this correspondence responds to specific questions you posed via electronic mail to the Erie County Director of Finance. Note that the County has based its responses below in large part upon information, belief, and a review of records stored at the Department of Finance in hardcopy form. Due to retirements and departures resulting from a January 2022 change in County administration following the 2021 election, the County no longer employs the personnel who created and maintained the relevant records. As we discussed, I am happy to follow this correspondence with production of relevant documents via a method and schedule that our offices can coordinate going forward.

1) Question: Why did the County decide on the 55/45 split of the gaming funds?

Omnibus Amendment No. 2017-42 ("Act 42") amended the Horse Race Development and Gaming Act to mandate that annual gross terminal gaming revenue issued by the Commonwealth to a third-class home rule county must be allocated 50% to the county, with the remaining 50% (minus \$1 million reserved for a land bank jurisdiction established by that county) allocated for the purpose of municipal grants within the county. At the time, Erie County received approximately \$11 million annually from Presque Downs & Casino. Accordingly, the Department of Finance and ECGRA agreed at that time to a quarterly distribution ensuring that the Erie County Land Bank received \$1 million, with Erie County and ECGRA dividing the remaining \$10 million such that Erie County received half of the gross terminal revenue amount, *i.e.*, \$5.5 million, with the remaining \$4.5 million going to ECGRA. This resulted in the 55/45 split.

2) For our audit documentation, could you provide any documentation that you have (written agreements, memorandums of understanding, emails, meeting notes, etc.) that explains why the county settled on and maintains the 55/45 split?

The County is not aware of any formal written agreement executed by the County and ECGRA that established the 55/45 allocation of gaming funds. The County is also not aware of any written agreement between the County and ECGRA implementing any other method of distribution. The 55/45 split has remained the agreed course of practice for Erie County and ECGRA from 2017 until present day. In or around September 2021, Finance conducted a review of the Act 42 amendments and determined that nothing in the amended statute changed the relative allocation of gaming revenue.

## A Performance Audit

### Erie County Gaming Revenue Authority

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- 3) Is there an annual reconciliation to ensure that both Erie County and ECGRA have received the proper amount of funds according to the laws/agreements?

Per the current Director of Finance, Erie County annually provides to ECGRA a full accounting of the allocation of funds between the Land Bank, the County, and ECGRA, to confirm that such allocation is in accordance with 55/45 split implemented in 2017.

- 4) Is there any other information we should be considering related to this topic?

To the best of the County's knowledge, ECGRA Executive Director Perry Wood and ECGRA Solicitor Timothy Wachter are the only individuals relevant to this matter who have served in their current roles since before the 2022 change in County administration. The County recommends that your office also contact the following former Erie County officials, each of whom apparently played a role in the County's decision to implement and maintain the 55/45 split:

- (i) former County Executive Kathy Dahlkemper;
- (ii) former County Solicitor Richard Perhacs;
- (iii) former Director of Finance James Sparber; and
- (iv) former Finance Accounting Manager Tracey Fugagli.

- 5) ECGRA has provided us with correspondence it sent to the County questioning the amount of revenue it has received during the audit period. Has the County made a determination regarding this issue?

To date, the County has not made any determination regarding ECGRA's dispute of the allocation of gaming funds. In or around August 2023, the Department of Finance became aware of an opinion letter from Solicitor Wachter dated July 19, 2023, which first raised the assertion that the 55/45 split resulted in an incorrect allocation of gaming funds. In Fall 2023, the County raised other concerns regarding the regulatory compliance of ECGRA's municipal grant process, which ultimately resulted in a February 2024 bipartisan call by regional legislators for your office to conduct the current audit of ECGRA. The Department of Finance subsequently became aware of a second opinion letter by Solicitor Wachter in July 2024 that again challenged the allocation of gaming funds, but by that point ECGRA's audit was underway.

County administration and the Department of Finance give their full support to your audit and are available for any follow-up at your convenience. Please do not hesitate to contact me any time with any additional questions or concerns. Also, please contact me directly to coordinate the transfer of relevant records in the County's possession that may be helpful to your audit.

Respectfully submitted,



William S. Speros, Esq.  
Erie County Solicitor

## A Performance Audit

### Erie County Gaming Revenue Authority

#### Appendix C

#### Distribution List

This audit report was distributed to the following individuals:

#### **The Honorable Josh Shapiro**

Governor

#### **Ms. Kelly Hess**

Chairperson of the Board  
Erie County Gaming Revenue Authority

#### **Dr. Perry Wood**

Executive Director  
Erie County Gaming Revenue Authority

#### **The Honorable Scott Martin**

Senate Majority Appropriations Chairman  
Pennsylvania Senate

#### **The Honorable Vincent Hughes**

Senate Minority Appropriations Chairman  
Pennsylvania Senate

#### **The Honorable Jordan Harris**

House Majority Appropriations Chairman  
Pennsylvania House of Representatives

#### **The Honorable James B. Struzzi**

House Minority Appropriations Chairman  
Pennsylvania House of Representatives

#### **The Honorable Kim Ward**

President Pro-Tempore  
Pennsylvania Senate

#### **The Honorable Joanna McClinton**

Speaker of the House  
Pennsylvania House of Representatives

#### **The Honorable Matt Bradford**

House Majority Leader  
Pennsylvania House of Representatives

#### **The Honorable Jesse Topper**

House Minority Leader  
Pennsylvania House of Representatives

#### **The Honorable Joe Pittman**

Senate Majority Leader  
Pennsylvania Senate

#### **The Honorable Jay Costa**

Senate Minority Leader  
Pennsylvania Senate

#### **The Honorable Morgan Cephas**

House Gaming Oversight Chair  
Pennsylvania House of Representatives

#### **The Honorable Craig Williams**

House Gaming Oversight Chair  
Pennsylvania House of Representatives

#### **The Honorable Rosemary Brown**

Senate Community, Economic &  
Recreational Development Chair  
Pennsylvania Senate

#### **The Honorable Anthony H. Williams**

Senate Community, Economic &  
Recreational Development Chair  
Pennsylvania Senate

#### **The Honorable Dan Laughlin**

Senator  
Pennsylvania Senate

## **A Performance Audit**

### **Erie County Gaming Revenue Authority**

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**The Honorable Scott Hutchinson**

Senator  
Pennsylvania Senate

**The Honorable Patrick Harkins**

Representative  
Pennsylvania House of Representatives

**The Honorable Robert Merski**

Representative  
Pennsylvania House of Representatives

**The Honorable Jacob Banta**

Representative  
Pennsylvania House of Representatives

**The Honorable Brad Roae**

Representative  
Pennsylvania House of Representatives

**The Honorable Ryan Bizzarro**

Representative  
Pennsylvania House of Representatives

**The Honorable Brenton Davis**

Erie County Executive  
Erie County, Pennsylvania

**The Honorable Uri Monson**

Secretary of the Budget  
Office of the Budget

**The Honorable Stacy Garrity**

State Treasurer  
Pennsylvania Treasury Department

**The Honorable Dave Sunday**

Attorney General  
Office of the Attorney General

**The Honorable Neil Weaver**

Secretary of Administration  
Office of Administration

**Mr. William Canfield**

Director  
Bureau of Audits  
Office of Comptroller Operations

**Mr. Patrick Frownfelter**

Library Technician  
State Library of Pennsylvania

This report is a matter of public record and is available online at [www.PaAuditor.gov](http://www.PaAuditor.gov). Media questions about the report can be directed to the Pennsylvania Department of the Auditor General, Office of Communications, 229 Finance Building, Harrisburg, PA 17120; via email to: [news@PaAuditor.gov](mailto:news@PaAuditor.gov).